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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,620	01/30/2006	Matthias Winkel	ZAHFRI815US	7373
20210 7590 07/24/2009 DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
LE, DAVID D				
ART UNIT		PAPER NUMBER		
3655				
MAIL DATE		DELIVERY MODE		
07/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,620

Applicant(s)

WINKEL ET AL.

Examiner

David D. Le

Art Unit

3655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-32 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the fourth Office action on the merits of Application No. 10/566,620, filed on 30 January 2006. Claims 23-32 and 34-36 are pending.

Documents

2. The following documents have been received and filed as part of the patent application:
 - Copy of Foreign Priority Document, received on 01/30/06
 - Information Disclosure Statement, received on 01/30/06

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23-32 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 6,231,474 to Hawarden et al. (hereinafter referred to as Hawarden).

Claims 23-32 and 34-36:

Hawarden (Figs. 1-3B; column 1, line 60 – column 4, line 67) discloses an automated transmission downshift control comprising the steps of:

- Carrying out a first downshifting operation during a coasting mode (i.e., column 4, lines 35-37) of the automatic transmission (i.e., Fig. 1, element 14) from a higher gear to a lower gear (i.e., column 3, line 4 – column 4, line 67);

- Disengaging a clutch (i.e., Fig. 1, element 16) located between the automatic transmission and a vehicle engine (i.e., Fig. 1, element 12);
- Terminating the first downshifting operation by engaging the clutch located between the automatic transmission and the vehicle engine so that engine compression influences the vehicle (i.e., column 3, line 4 – column 4, line 67);
- If the vehicle falls below a threshold speed, carrying out a second downshifting operation of the automatic transmission (i.e., column 3, line 66 - column 4, line 9);
- Disengaging the clutch located between the automatic transmission and the vehicle engine (i.e., column 3, line 4 – column 4, line 67);
- Downshifting from the lower gear to a first next lower gear in the automatic transmission and subsequently downshifting from the first next lower gear to a second next lower gear while maintaining the clutch, located between the automatic transmission and the vehicle engine, disengaged during the second downshifting operation (i.e., column 3, line 4 – column 4, line 67);
- Determining a driver desire for positive drive torque (i.e., column 3, line 4 – column 4, line 67);
- Terminating the second downshifting operation by engaging the clutch (i.e., column 3, line 4 – column 4, line 67);
- Preventing the second downshifting operation if operational brakes are activated (i.e., column 3, line 4 – column 4, line 67);

- Wherein the step of determining the driver desire for positive torque by identifying at least one of:
 - Releasing operative brakes;
 - Deflecting an activation lever for a direction of travel;
 - A predetermined steering angle of a vehicle steering mechanism; and
 - Activating of a power control member (i.e., column 3, line 4 – column 4, line 67).

Response to Arguments

5. Applicants' arguments filed on 19 May 2009 have been fully considered but they are not persuasive. Applicants argue that Hawarden et al.'474 does not anticipate the claims because it does not disclose the method step of carrying out a downshifting operation during a coasting mode, as required by the present claims. Examiner respectfully disagrees because Hawarden'474 (i.e., column 4, lines 29-37) discloses a step of performing a downshift to maximize engine brake when the vehicle is descending/coasting down hills. Accordingly, as set forth above, Hawarden'474 meets the claimed limitations.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Hoshiya et al. (U. S. Patent No. 6,019,699) teaches a synchronized coast downshift control for a hybrid vehicle, as shown in Figs. 1-7.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/
Primary Examiner, Art Unit 3655
07/23/2009

ddl